

## **EXHIBIT 2**

## Stameshkin, Liz

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**From:** Maxwell Pritt <mpritt@BSFLP.com>  
**Sent:** Friday, September 27, 2024 12:40 PM  
**To:** Poppell, Cole A; Holden Benon; Christopher Young; Aaron Cera; Cadio Zirpoli; Joe Saveri; Margaux Poueymirou; Ashleigh Jensen; Rya Fishman; Matthew Butterick; Nada Djordjevic; James Ulwick; Bryan L. Clobes; Mohammed Rathur; Amy Keller; David Straite; Ruby Ponce; Alexander Sweatman; Heaven Haile; Llama BSF; Josh Schiller; David Boies; Jesse Panuccio; Hartnett, Kathleen; Ghajar, Bobby A.; Ghazarian, Colette A; Biksa, Liene; Alvarez, Jessica; mlemley@lex-lumina.com; Weinstein, Mark; Stameshkin, Liz; z/Meta-Kadrey; Dunning, Angela L.  
**Subject:** RE: Kadrey et al. v. Meta: Plaintiffs' Request to Modify Court-Ordered Case Schedule

### [External]

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Thank you, Cole and Kathleen.

Kathleen, your letter significantly mischaracterizes yesterday's meet and confer, such as the incorrect assertions that Plaintiffs "should be permitted to have the requested extension due to [BSF's] recent addition to the case as counsel and [BSF's] need to 'get up to speed'" (that is Mr. Ghajar's quotation, not ours); that we "took the position that . . . the Court would likely not require such a showing [a showing of need as to the fair use issue] given the recent addition of new counsel"; or that we "would not agree to any limitations on discovery in advance."

As you know, I provided you with a proposed amended case management schedule during a call at 1:20 p.m. on Wednesday, September 25, 2024, a little over 24 hours after BSF filed notices of appearance in this matter. That schedule proposed an extremely accelerated completion of discovery to maintain the Court's stated preference to hear summary judgment in March 2025. Shortly thereafter, I emailed you that proposed schedule and asked to discuss the proposed deadlines that same day or, if not, the next morning. Hearing nothing, I followed up that evening. I did not receive a response until the next morning, and we scheduled an initial meet and confer that same day. On that meet and confer, I shared my screen, which you screenshotted without informing me and instead of just asking for a copy, to display the proposed case management schedule I previously provided, and also interim deadlines, both of which impose significant limitations on Plaintiffs' ability to complete discovery. You and Mr. Ghajar were unwilling to discuss extensions of any of the case management deadlines unless we identified in advance particularized, *substantive* limitations on Plaintiffs' ability to engage in and to complete merits discovery. We explained that we were not in a position to do so but nonetheless listed several outstanding categories of discovery that we believe are important to the Court's resolution of the fair use issue, and you do not identify in your letter where any of that discovery has been provided. We also explained that we likely would be able to identify more discovery areas necessary for the Court's proper resolution of the fair use issue once we investigate further, having joined the case just days ago (at the Court's request to add new counsel for Plaintiffs). Thus, we made the entirely reasonable proposal to supplement discovery requests by the end of the first week of October.

Because Judge Chhabria directed Meta to "identify the issues that we need to be getting ready to deal with at summary judgment," we also asked you to clearly state your position on liability issues and other affirmative defenses. Mr. Ghajar confirmed that Judge Chhabria's stated understanding that the parties "agreed about the use of the copyrighted works" was wrong and that Meta would dispute all of the issues the Court believed would be undisputed on summary judgment: (1) that the copyrighted works "were availability on a database [Llama]"; (2) "that the database was not authorized to make them available"; (3) "[t]hat Meta acquired them from that database"; (4) that "Meta fed the stuff from the database into the large language model"; and (5) that "of course the large language model is for commercial use." 9/20 Hr'g Tr. at 6:9-16. Mr. Ghajar also refused to identify Meta's position on any other affirmative defenses, stating only as to standing there were ownership "issues." That

evasive response also shows why we need to ensure all necessary discovery is taken, given the Court's concern about having a "proper record."

It is clear that Meta is not seeking a good-faith, reasonable solution so that the parties can proceed to develop the proper record that is needed for Judge Chhabria to decide summary judgment on the disputed issues. We will file our motion and can discuss with the Court.

Thank you.

Best,  
Max

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**From:** Poppell, Cole A <CPoppell@cooley.com>  
**Sent:** Friday, September 27, 2024 11:28 AM  
**To:** Holden Benon <hbenon@saverilawfirm.com>; Christopher Young <cyoung@saverilawfirm.com>; Aaron Cera <aCera@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Joe Saveri <jsaveri@saverilawfirm.com>; Margaux Poueymirou <mpoueymirou@saverilawfirm.com>; Ashleigh Jensen <ajensen@saverilawfirm.com>; Rya Fishman <rfishman@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>; Nada Djordjevic <ndjordjevic@dicellevitt.com>; James Ulwick <Julwick@dicellevitt.com>; Bryan L. Clobes <BClobes@caffertyclobes.com>; Mohammed Rathur <MRathur@caffertyclobes.com>; Amy Keller <akeller@dicellevitt.com>; David Straite <dstraite@dicellevitt.com>; Ruby Ponce <rponce@saverilawfirm.com>; Alexander Sweatman <ASweatman@caffertyclobes.com>; Heaven Haile <hhaile@saverilawfirm.com>; Llama BSF <Llama\_BSF@bsflp.com>; Josh Schiller <JiSchiller@BSFLP.com>; David Boies <DBoies@BSFLP.com>; Jesse Panuccio <jpanuccio@BSFLP.com>; Maxwell Pritt <mpritt@BSFLP.com>; Kathleen Hartnett <khartnett@cooley.com>; Ghajar, Bobby A. <bgghajar@cooley.com>; Ghazarian, Colette A <cghazarian@cooley.com>; Biksa, Liene <lbiksa@cooley.com>; Alvarez, Jessica <jalvarezlopez@cooley.com>; mlemley@lex-lumina.com; Weinstein, Mark <mweinstein@cooley.com>; Stameshkin, Liz <lstameshkin@cooley.com>; z/Meta-Kadrey <zmetakadrey@cooley.com>; Dunning, Angela L. <adunning@cgsh.com>  
**Subject:** Kadrey et al. v. Meta: Plaintiffs' Request to Modify Court-Ordered Case Schedule

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Counsel:

On behalf of Kathleen Hartnett, please find attached Meta's letter regarding Plaintiffs' Request to Modify Court-Ordered Case Schedule.

Sincerely,  
Cole Poppell

**Cole A. Poppell**  
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